EVEREST FUNERAL CONCIERGE

# EMPOWERING PEOPLE

## THE IMPORTANCE OF A WILL AND THE RISKS OF DYING WITHOUT ONE

**More than half of Brits don't have a will.**

**75% of those under 55 years of age don't have a will.**

**Whilst preparing a will is not high on the to-do list, the consequences of dying without a will when you are younger can be even more distressing particularly when you have a property or financial dependents.**

### WHO SHOULD LEAVE A WILL?

Everyone, even if you think you don't have much to leave. You can be sure your assets and personal belongings can be dealt with in accordance to your wishes.

### WHAT IF I DON'T HAVE ANYONE TO LEAVE IT TO?

You can appoint a professional executor such as a solicitor or accountant. If you have no one to leave your estate to you could set up a legacy for a charity. If this is not done once the estate has been finalised the funds will go to the crown. This is held for 12 years in case someone comes forward with a claim to the estate and after this has lapsed the crown can claim the funds.

### WHAT IF I WANT TO EXCLUDE SOMEONE FROM MY WILL?

You can choose whoever you wish to benefit from your estate, but close relatives may contest the will if they think they are entitled. You can name them as a beneficiary of a token gift such a small sum of money as this may make it harder for them to contest the will. Legal advice should always be taken in such cases.

### WHO HAS A CLAIM TO THE ESTATE?

If there is a will the executor will ensure all beneficiaries receive what they are entitled to as per the deceased's wishes. If there is no will and the person died intestate, the rules of intestate will determine who is entitled to benefit from the estate.

### WHAT WOULD HAPPEN TO MY ESTATE IF I DIED INTESTATE?

There are strict inheritance laws in the UK. The law makes no provision for unmarried or unregistered partners (co-habiting, long term partners or common law spouse) meaning the surviving partner will not automatically inherit the deceased property or possessions if it wasn't in joint names. This could leave partners in a financially vulnerable situation.

The rules of intestacy only recognise natural and adopted children, not stepchildren, however they may be able to make a valid claim.

Under the rules of intestacy, the estate will be divided between relatives in a certain way. Again, this could leave some beneficiaries financially vulnerable.

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## EXAMPLES OF HOW ESTATE MAY BE DIVIDED:

- If married or in a civil partnership & had no children, all the estate would go to surviving spouse/civil partner.
- If person is not married but living with long-term partner, they are not entitled to anything under intestacy laws
- If person not married but has children, whole estate goes to them or if one of the children is deceased and they have a child their amount would go to their children (grandchildren).
- If no partner or children estate would go to parents, siblings or other relatives dependent on who is still alive in the line of succession.
- If someone dies without a will in England & Wales, leaving a spouse or civil partner and children:
  1. The surviving spouse or civil partner receives:
     - All personal chattels (possessions) of the deceased, and
     - The first £322,000 of the estate.

2. If the estate is worth more than £322,000:
   - The remainder of the estate after that amount is split 50/50 between the spouse/civil partner and the children.

3. The children's share is then divided equally between all children.

## EXAMPLE (ESTATE WORTH £600,000)

- First £322,000 to surviving partner.
- Remaining balance: £600,000 – £322,000 = £278,000
- Of that £278,000:
  - Half (£139,000) to the partner
  - Half (£139,000) to be shared between the children.

**Total to partner:** £322,000 + £139,000 = £461,000

**Total to children:** £139,000 split equally

***Important Notes***

- *This only applies if the person died without a valid will (intestacy).*
- *If the estate is less than £322,000, the partner gets the entire estate (plus personal possessions), and the children receive nothing under intestacy.*
- *This does not apply in Scotland or Northern Ireland where different rules apply.*
- *The rules do not automatically cover unmarried or cohabiting partners; they must be married or in a civil partnership to inherit under intestacy.*

Jointly owned assets will not apply to intestacy rules as they will automatically pass to the surviving owner.

## WHAT IS PARTIAL INTESTACY?

When the will doesn't deal with the whole estate e.g. the will doesn't state what should happen with the rest of the estate after all beneficiaries have received gifts etc. or where all beneficiaries are deceased and no substitutes have been named.

## COMMON SCENARIOS

- Unmarried partners not benefiting even if they have lived together for many years
- Stepchildren or foster children not included
- Will wasn't updated when remarried, this could potentially leave children with nothing
- Estate could be passed to a distant relative or estranged family member
- All the estate goes to crown

The only way to make sure your estate goes to the people you want is to make a will!